



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

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OFFICE OF
ENVIRONMENTAL
CLEANUP

AUG 26 2014

Mr. Kelly Wright
Environmental Waste Management Program Coordinator
The Shoshone-Bannock Tribes of the Fort Hall Indian Reservation
P.O. Box 306
Fort Hall, Idaho 83203

Dear Mr. Wright:

I am writing regarding the Environmental Protection Agency's ongoing concerns with the management of cooperative agreements issued to the Shoshone-Bannock Tribes Environmental Waste Management Program in support of EPA's CERCLA work at the Eastern Michaud Flats Superfund Site. (Specifically, Cooperative Agreement V-00053310 [Eastern Michaud Flats] which expired on October 31, 2013 and Cooperative Agreements V-00J82901 [Simplot], V-00J82801 [FMC], and V-00J82701 [Off-Plant] which cover work during 2014.) This letter follows previous correspondence from the EPA regarding findings from an Advanced Post Award Monitoring Review conducted last fall (reference: September 25, 2013 letter from Ms. Jannine Jennings) and a Limited Scope Administrative and Financial Review completed in August and September, 2011 (reference: October 13, 2011 letter from Kysha Holliday, EPA Office of Administration and Resource Management Compliance Officer to Steven M. Hagler, Director of Finance, Shoshone-Bannock Tribes and February 2, 2012, letter from Bob Philips, EPA Region 10 Administrative Review Officer, to Steven M. Hagler). Previously, the EPA has also verbally and in email correspondence expressed concerns related to discrepancies between expenditures reported on Quarterly Performance Reports (QPRs) and those invoiced, work that appeared to be inconsistent with the approved work plan(s), and QPRs that did not include all information required by the terms and conditions of the grant(s). The EPA is very concerned that problems continue to persist.

As mentioned above, in August and September 2011 the EPA conducted a Limited Scope Administrative and Financial Review of several cooperative agreements and grants issued to the Shoshone-Bannock Tribes, including the EMF Cooperative Agreement (V-00053310). This review found that the Tribes lacked a consistent process for documenting official time for each employee working on the EPA assistance agreements and ensuring records are maintained to support costs charged to those agreements. The review also found draw down requests that were not supported by data in the Tribes' financial management system. In order to address these concerns, the EPA required the Shoshone-Bannock Tribes take steps to bring their financial management system into compliance with the EPA assistance agreement requirements such that the financial system can, at any point in time, provide information about the expenditure of funds (letter to the Tribes dated February 2, 2012).

Since that review, similar problems with cost tracking, reporting and invoicing have been experienced. Specifically, the 2013 EMF Advanced Post Monitoring Review identified significant discrepancies between the fiscal information provided by the Environmental Waste Management Program in QPRs and draw down requests submitted by the Tribes' Finance Office. As a result of the financial discrepancies between reported and invoiced costs, during grant close out the EPA had to process

cooperative agreement amendments to shift funds among the various projects. The grant was closed with prejudice and the final grant record includes QPRs that report expenditures differing significantly from those suggested by draw down requests. In response to these concerns, the Tribes agreed to address the problems by implementing measures that would ensure internal consistency in the fiscal records and reports from the two offices. While verbal assurances were provided by the Tribes, the corrective action plan requested in our September 2013 APAM letter was never received.

Due in large part to the financial and reporting concerns discussed above, three separate cooperative agreements (V-00J82901, V-00J82801, and V-00J82701, for Simplot, FMC, and Off-Plant Operable Units, respectively) were awarded for the current period of performance (January 1, 2014 to December 31, 2014). The EPA anticipated this would aid the Tribes in ensuring accurate cost tracking, reporting and invoicing for each of the three EMF operable units. We also expected that the quality of QPRs would be improved based on the input provided throughout the prior grant period as well as during the 2013 Advanced Post Award Monitoring discussions. Unfortunately, based on the first and second quarter QPRs recently received by the EPA, significant and concerning problems persist.

QPRs received for all three new cooperative agreements lacked sufficient detail for the EPA to evaluate whether work conducted by the Tribes was within approved work plan, they didn't include all information required by the grant terms and conditions and reported costs do not appear to be complete and consistent with reported activities. For example, while the QPRs report approximately \$22,500 in contractor costs for the 3 operable units, no Tribal staff hours, indirect costs or fringe benefits are reported for any project throughout the first six months of the grant. Financial draw-downs to date total approximately \$10,500. Some of the QPRs note that the Tribes are trying to resolve internal accounting problems related to "pre-award" hours for January and February. However, there is no explanation given for the lack of Tribal costs for March through June. The Q2 Simplot QPR states that these problems will be resolved with the Q3 report which isn't due to the EPA until November 2014, one month prior to the end of the grant. With the information currently provided in the QPRs received on these new cooperative agreements, the EPA Project Officers cannot determine whether work conducted and costs expended are consistent with the approved work plan. Our concerns are outlined in more detail in the attached comments on submitted QPRs.

The EPA is very concerned that the Tribes' do not have a financial system which accurately documents official time of each employee by project and records supporting work conducted and associated expenditures are inconsistent or non-existent. Based on these persistent concerns, it does not appear the Tribes have sufficient management and financial controls in place to ensure proper administration of these assistance agreements. These weaknesses create significant vulnerabilities for both the EPA and the Tribes.

To begin addressing these concerns, by September 30, 2014 please provide the EPA with the following:

1. Revised first and second quarter QPRs for all three CERCLA Cooperative Agreements. EPA's comments on the reports submitted for each agreement are attached. The revised QPRs should provide sufficient detail to fully address EPA's concerns as identified in these comments and accurately document all expenses (including contractor expenses) associated with the work conducted.
2. Documentation showing that costs reported on the QPRs are consistent with Tribal financial records and the draw-down requests submitted to EPA's Las Vegas Finance Center. If all

expenses for a quarter have not been submitted for reimbursement, please explain why they have not been submitted and provide an estimate of when they will be submitted.

3. An explanation of the steps taken since the 2013 Advanced Post Monitoring Review to ensure consistency between the fiscal information kept by the Finance Office and the Environmental Waste Management Program. Please provide written documentation of measures put in place so that similar problems will not reoccur.

If by September 30, 2014, adequate documentation is not received, EPA's Superfund program will recommend that the Eastern Michaud Flats Superfund Site Cooperative Agreements be placed in a "high risk" category. This will require additional work for both the EPA and the Tribes and would include a requirement for the Tribes' to submit documentation of all expenses to the EPA Project Officers for his or her approval prior to the EPA payment of any reimbursement request. While the EPA prefers that deficiencies be corrected in the near term, classifying the Agreements as "high risk" will help ensure proper tracking, reporting and expenditure of federal funds.

As always, my staff and I are available to address any questions you might have and to provide further guidance regarding these matters.

Sincerely,



Beth F. Sheldrake, Unit Manager
Superfund Site Cleanup Unit #1
Remedial Cleanup Program

Enclosures:

2013 V-00053310 APAM letter

2011 Limited Scope Administrative and Financial Management System Review and letter

2012 Administrative and Financial Management Review follow-up letter

EPA specific comments on Q1 and Q2 QPRs for Simplot, FMC and Off Plant Cooperative Agreements

cc: Mr. Arnold Appeney, Land Use Director
Mr. Jim Zokan, EPA
Ms. Kathy Tsing-Choy, EPA